

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Authorization, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2007.

Application 05-12-002  
(Filed December 2, 2005)

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Pacific Gas and Electric Company.

Investigation 06-03-003  
(Filed March 2, 2006)

**ADMINISTRATIVE LAW JUDGES' RULING  
REGARDING NOTICES OF INTENT TO CLAIM COMPENSATION**

**1. Summary**

This ruling responds to the notices of intent to claim compensation (NOIs) that were separately filed in this docket by Aglet Consumer Alliance (Aglet), Alliance for Nuclear Responsibility (ANR), Disability Rights Advocates (DisabRA), Greenlining Institute (Greenlining), San Luis Obispo Mothers for Peace (MFP), and The Utility Reform Network (TURN). This ruling addresses the requirements of the Pub. Util. Code, Article 5, § 1804. All statutory references are to the Public Utilities Code. After consultation with the Assigned Commissioner, we find that Aglet, ANR, DisabRA, Greenlining, MFP, and TURN have met all relevant requirements including significant financial hardship and are eligible for compensation in this proceeding.

There is some overlap in the areas of focus between intervenors based on their NOIs. All parties who intend to seek intervenor compensation should ensure that each party's efforts complement or supplement but do not duplicate the efforts of other parties with similar interests. Parties requesting compensation should discuss amongst themselves and the Commission staff the issues each will address to promote efficiency in their showings. Merely appearing, stating a position, and cross-examining will not assure compensation; rather, intervenors must demonstrate that their participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or Commission in resolving this proceeding.

## **2. Background**

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." The prehearing conference in this proceeding was held on January 23, 2006. All NOIs were timely filed.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers. If the customer category identified is "a representative authorized by a customer," the NOI should identify "the residential customer or customers that authorized him to represent that customer." That identification is

needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation.

Section 1802(g) defines “significant financial hardship” as follows. “‘Significant financial hardship’ means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.”

### **3. Aglet Consumer Alliance**

Aglet is an unincorporated nonprofit association, registered with the State of California Secretary of State. Aglet is organized to represent and advocate the interests of residential and small commercial customers of electric, gas, water, and telephone utilities in California. Aglet represents the specific interests of

small customers.<sup>1</sup> Aglet expects that its participation will support and complement, but not duplicate the showings of the Division of Ratepayer Advocates (DRA) and TURN. Aglet meets the third definition of customer, as defined in § 1802(b)(1)(C).

The economic interests of Aglet's individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost of Aglet's participation in Commission proceedings substantially outweighs the benefit to an individual customer it represents. Aglet's members are small residential customers and small businesses whose individual interests in this proceeding are small relative to the costs of participation.

A rebuttable presumption of eligibility exists for Aglet. A finding of significant financial hardship was determined in an ALJ Ruling issued on November 5, 2005 in Application (A.) 05-06-006 et al. concerning utility demand response programs. This proceeding commenced within one year of this finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in A.05-06-006 is applicable. A finding of significant financial hardship in no way ensures compensation (§ 1804(b)(2)).

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Aglet plans to participate actively by conducting

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<sup>1</sup> Aglet provided the relevant portions of its articles of incorporation in its notice of intent in A.99-03-014, and Aglet states that there has been no change to its bylaws since that filing. At the present time, all of Aglet's members are residential utility customers, including customers of PG&E. Approximately 30% of Aglet's members also operate small businesses with separate energy or telephone utility service.

discovery, preparing and serving testimony, testifying, cross-examining witnesses, and filing briefs and comments, as required. Aglet plans to focus on the following issues: customer service expenses, customer accounts expenses and post-test year ratemaking, as well as other issues as the proceeding unfolds.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Aglet estimated a total projected budget of \$89,020 for this case, based on proposed hourly rates which will be addressed in its Request for Compensation.

#### **4. Alliance for Nuclear Responsibility**

ANR is an incorporated nonprofit association registered with the State of California Secretary of State. ANR is organized to represent the interests of residential and small commercial customers of nuclear utilities in California.<sup>2</sup> ANR meets the third definition of customer, as defined in § 1802(b)(1)(C).

The economic interests of ANR's individual members are small compared to the costs of effective participation in Commission proceedings. In addition, the cost of ANR's participation in Commission proceedings substantially outweighs the benefit to an individual customer it represents. ANR's members are small residential and business customers whose individual interests in this proceeding are small relative to the costs of participation. Therefore, we find that ANR, as an organization, has demonstrated significant financial hardship according to § 1802(g). A finding of significant financial hardship in no way ensures compensation. (§ 1804(b)(2).)

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<sup>2</sup> ANR provided a copy of its by-laws. ANR stated that all of ANR's present members are residential utility customers, including customers of PG&E. About 15% of its members also operate small businesses which are sole proprietorships.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. ANR plans to participate by conducting discovery, preparing testimony, testifying, cross-examining witnesses and filing briefs and comments as required. ANR plans to focus on PG&E's request for funding a feasibility study for license renewal application of its Diablo Canyon Nuclear Plant and other issues as the proceeding unfolds.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. ANR estimated a total projected budget of \$20,170 for this case, based on proposed hourly rates which will be addressed in its Request for Compensation.

## **5. Disability Rights Advocates**

DisabRA is a 501(c)(3) organization authorized by its bylaws to represent the interests of disabled persons, including individual residential customers of PG&E.<sup>3</sup> DisabRA expects that its participation will support and complement, but not duplicate the showing of DRA, because DisabRA specifically represents the interests of disabled PG&E customers who are affected by PG&E's obligations. DisabRA meets the third definition of customer, as defined in § 1802(b)(1)(C).

The economic interests of DisabRA's individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost of DisabRA's participation in Commission proceedings

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<sup>3</sup> DisabRA attached its articles of incorporation to the NOIs previously submitted in Rulemaking (R.) 03-04-003 and R.04-12-001. DisabRA states it represents the interests of more than 6,000,000 disabled Californians, many of whom are PG&E customers affected by PG&E's obligations.

substantially outweighs the benefit to an individual customer it represents. DisabRA's members are primarily disabled residential customers whose individual interest in this proceeding are small relative to the costs of participation. Therefore, we find that DisabRA, as an organization, has demonstrated significant financial hardship according to § 1802(g). A finding of significant financial hardship in no way ensures compensation. (§ 1804(b)(2).)

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. DisabRA's planned participation includes presenting testimony and other participation necessary to present and defend this testimony in the hearings. DisabRA will address the issues of PG&E's obligation to keep both public rights-of-way affected by PG&E's construction work and its payment centers accessible to people with disabilities. DisabRA may address other issues that may arise that would affect customers with disabilities. DisabRA states it will seek to coordinate with other parties to avoid undue duplication.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. DisabRA estimated a total projected budget of between \$60,030 and \$72,300, based on proposed hourly rates which will be addressed in its Request for Compensation.

## **6. Greenlining Institute**

Greenlining Institute is a 501(c)(3) organization authorized by its bylaws to represent, among others, low-income communities and residential ratepayers

before regulatory agencies and courts.<sup>4</sup> The interests that Greenlining represents, specifically low-income, minority and limited-English speaking communities, are frequently underrepresented in Commission proceedings. Greenlining meets the third definition of customer, as defined in § 1802(b)(1)(C).

The economic interests of Greenlining's individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost of Greenlining's participation in Commission proceedings substantially outweighs the benefits to an individual customer it represents. Greenlining's members are residential customers and small businesses whose individual interests in this proceeding are small relative to the costs of participation.

A rebuttable presumption of eligibility exists for Greenlining. A finding of significant financial hardship was determined in an ALJ ruling issued on April 8, 2005 in A.04-12-014. This proceeding commenced within one year of this finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in A.04-12-014 is applicable. A finding of significant financial hardship in no way ensures compensation. (§ 1804(b)(2).)

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. Greenlining plans to participate by preparing and serving testimony, testifying, cross-examining witnesses, and filing briefs and comments, as required. Greenlining plans to focus its participation on PG&E's

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<sup>4</sup> Greenlining provided the relevant portions of its articles of incorporation in its NOI in A.98-12-005. Greenlining estimates that about 75% of its members are residential ratepayers, with 25% being small business customers.



customer service programs and proposed closures of service centers, specifically, how they serve low-income, minority, and limited-English speaking customers, and the provision of safe and reliable service to these communities. Greenlining states that it will also examine workforce diversity, executive compensation, and philanthropic contributions. We caution Greenlining that its testimony in this regard should be consistent with the February 3, 2006 Scoping Memo at pages 2 and 3, which states that certain issues described under the headings of alternate forms of electric generation and philanthropy are outside of the scope of this proceeding.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Greenlining estimated a total projected budget of \$251,250 for this case, based on proposed hourly rates which will be addressed in its Request for Compensation.

## **7. San Luis Obispo Mothers for Peace**

MFP is a nonprofit organization authorized by its bylaws to represent the interests of customers regarding safety consequences of rate mechanisms for California utilities.<sup>5</sup> MFP intends to ensure its participation supports and complements the work of other parties to avoid undue duplication, especially

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<sup>5</sup> MFP has about 1,200 members, the majority of which are residential ratepayers who live in San Luis Obispo County where the Diablo Canyon Nuclear Power Plant is located. MFP stated that it attached the relevant portions of its bylaws or articles of incorporation to its NOI, but did not do so. However, in D.04-09-050, the Commission noted that MFP provided this information to the Commission. (See 2004 Cal. PUC LEXIS 466 \*4.) This same decision finds that the average monthly bill of MFP's members is less than \$50. (Id. at 2004 Cal. PUC LEXIS 466 \*6.)

with respect to ANR. MFP meets the definition of customer as defined in § 1802(b)(1)(C).

The economic interests of MFP's individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost of MFP's participation in Commission proceedings substantially outweighs the benefit to an individual customer it represents. MFP's members are primarily residential customers whose individual interest in this proceeding are small relative to the costs of participation. Therefore, we find that MFP, as an organization, has demonstrated significant financial hardship according to § 1802(g). A finding of significant financial hardship in no way ensures compensation. (§ 1804(b)(2).)

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. MFP plans to pursue discovery, participate in relevant workshops, attend hearings to cross-examine witnesses, file briefs and comments as required. MFP has not yet decided if it will sponsor testimony. MFP plans to focus on issues surrounding the Diablo Canyon Nuclear Power Plant, including issues related to Operations and Maintenance (O&M) expenditure forecasts, enhanced security, the license renewal study, proposals for replacing the plant's aging workforce, and activities and costs associated with the Independent Spent Fuel Storage Installation.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. MFP estimated a total projected budget of \$96,590 for this case if it sponsors testimony and \$66,900 if it does not sponsor testimony, based on proposed hourly rates which will be addressed in its Request for Compensation.

## **8. The Utility Reform Network**

TURN is organized to represent and advocate the interests of consumers of public utility services in California. TURN indicates that it will coordinate with other intervenors to avoid undue duplication wherever practicable. TURN qualifies as a customer because it is an organization that is authorized by its articles of incorporation to represent the interests of consumers, a portion of whom we have determined to be residential customers.<sup>6</sup> TURN meets the third definition of customer, as set forth in § 1802(b)(1)(C).

The economic interests of TURN's individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost of TURN's participation in Commission proceedings substantially outweighs the benefit to an individual customer it represents. TURN's members are small residential customers whose individual interests in this proceeding are small relative to the costs of participation.

A rebuttable presumption of eligibility exists because TURN received a finding of significant financial hardship in an ALJ Ruling issued on November 4, 2005 in A.05-02-027. This proceeding commenced within one year of this finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in A.05-02-027 is applicable. A finding of significant financial hardship in no way ensures compensation (§ 1804(b)(2)).

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<sup>6</sup> TURN provided the relevant portions of its articles of incorporation in its notice of intent in A.98-02-017, and the articles of incorporation have not changed since then. TURN has in excess of 20,000 dues paying members, the majority of which are residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN expects to conduct discovery, prepare testimony, cross-examine witnesses, and file briefs and comments, as required. TURN plans to address major issues related to O&M expenses, depreciation expenses, capital costs, post test year revenue requirement escalation and service quality standards, and other issues as they may develop.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. TURN estimated a total projected budget of \$395,000 for this case, based on proposed hourly rates which will be addressed in its Request for Compensation.

Therefore, **IT IS RULED** that:

1. Aglet Consumer Alliance (Aglet) is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship. Aglet is found eligible for compensation in this proceeding.

2. The Alliance for Nuclear Responsibility (ANR) is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship. ANR is found eligible for compensation in this proceeding.

3. Disability Rights Advocates (DisabRA) is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship. DisabRA is found eligible for compensation in this proceeding.

4. Greenlining Institute (Greenlining) is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility requirements of § 1804(a), including

the requirement that it establish significant financial hardship. Greenlining is found eligible for compensation in this proceeding.

5. San Luis Obispo Mothers for Peace (MFP) is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility criteria of § 1804(a), including the requirement that it establish significant financial hardship. MFP is found eligible for compensation in this proceeding.

6. The Utility Reform Network (TURN) is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship. TURN is found eligible for compensation in this proceeding.

Dated March 7, 2006, at San Francisco, California.

/s/ TIMOTHY KENNEY by JJJ  
Timothy Kenney  
Administrative Law Judge

/s/ JANET A. ECONOME  
Janet A. Econome  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judges' Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated March 7, 2006, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.